

REMARKS

Applicants submit this response to an Office Action mailed by the USPTO on May 17, 2005 (the "Office Action"). Upon entry of this amendment, claims 1-32 are pending in the present application; claims 3-7, 10, 13, 17-21, 25-27, 29 and 30 being withdrawn.

In the Office Action, the Examiner has indicated that claims 1 and 20 are generic.

In the Office Action, the Examiner has made the following rejections of the claims:

Claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,875,205 B2 of Leinsing;

Claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102() as being anticipated by U.S. Patent No. 5,925,029 of Jansen et al.;

Claims 1, 2 8, 9, 11, 12, 14-16, 22-24 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,932,937 of Gustavsson et al.;

Claims 1, 2, 8, 11, 12, 14-16, 22, 23 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,725,507 of Petrick;

Claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,695,829 of Hellstrom et al.;

Claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,916,894 of Cloyd; and

Claims 9 and 24 under 35 U.S.C. §103(a) as being unpatentable over Hellstrom et al., Jansen et al., or Leinsing, and further in view of US Patent Application Publication No. US 2004/0097882 A1 of DiBiasi et al.

For the reasons set forth below, applicants respectfully traverse each of the above-noted rejections.

Before addressing the Examiner's rejections in detail, applicants take this opportunity to first note that the amendments to the claims are not made to overcome the prior art relied upon by the Examiner in rejecting the claims. As noted in more detail below, applicants respectfully submit that none of that prior art teaches or suggests a tip cap as recited by the claims of the present application.

Leinsing discloses a vial adapter having a needle -free valve for use with vial closures of different sizes. The adapter disclosed by Leinsing has a housing 23 with a first end 25 and a second end 35. Each of the housing, first end and second are circular in cross-section. See, e.g., FIGS. 9 and 13. In addition, applicants note that Leinsing does not disclose, either directly or indirectly, a tip cap for a syringe, as recited by applicants' claims. Thus, applicants respectfully submit that Leinsing fails to teach or suggest each element recited by the claims of the present application, as is required of a proper 35 U.S.C. §102 reference. Consequently, applicants further respectfully submit that the Examiner's rejection of claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102(e) as being anticipated by Leinsing is no longer tenable and respectfully request withdrawal of that rejection.

Jansen et al. discloses a connector assembly attachable to the rim of a vial. The connector assembly includes a cap 32, a collar 42, and a ring 60. Also provided within the ring 60 is a vial access device 80. The cap 32 and collar 42 are connected to each other by a frangible section 100. All of these components, and in fact, the entire device disclosed by Jansen et al. are/is

circular in cross-section. Moreover, Jansen et al. does not disclose a tip cap for a syringe, as claimed by applicants. Thus, applicants respectfully submit that Jansen et al. fails to teach or suggest each element recited by the claims of the present application, as is required of a proper 35 U.S.C. §102 reference. Consequently, applicants further respectfully submit that the Examiner's rejection of claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102() as being anticipated by Jansen et al. is no longer tenable and respectfully request withdrawal of that rejection.

Gustavsson et al. discloses a vessel that facilitates safe transfer of substances into or out of a syringe. The vessel of Gustavsson et al. comprises a flexible part 11 and a rigid part 13 that are each part spherical and which together define an elliptical or spherical volume. Gustavsson et al. does not teach or suggest a tip cap for sealing a tip, which is what applicants' have claimed as their invention. In addition, Gustavsson et al. fails to teach or suggest a tip cap having a base with an upper surface from which a top wall extends, and having a lower surface from which a shaft extends, as also recited by applicants' claims. Finally, Gustavsson et al. neither teaches nor suggests a tip cap having a top wall with a substantially non-circular cross-section, as recited by applicants' claims. Applicants respectfully submit that their claims are not anticipated by Gustavsson et al., as it fails to teach or suggest each element recited by the claims of the present application, as is required of a proper 35 U.S.C. §102 reference. Consequently, applicants further respectfully submit that the Examiner's rejection of claims 1, 2 8, 9, 11, 12, 14-16, 22-24 and 28 under 35 U.S.C. §102(b) as being anticipated by Gustavsson et al. is no longer tenable and respectfully request withdrawal of that rejection.

Petrick discloses a self-healing injection site that provides for self-healing of an injection site subsequent to puncture by a hypodermic needle. As depicted in Fig. 1, the disclosed self-healing injection site 10 has a circular cross-section. The only disclosure in Petrick of a non-circular cross-section is in connection with the prosthesis 80 depicted in Fig. 5, for example. That disclosure is clearly not related to a tip cap for a syringe, as claimed by applicants. Thus, applicants respectfully submit that their claims are not anticipated by Petrick, as it fails to teach or suggest each element recited by the claims of the present application, as is required of a proper 35 U.S.C. §102 reference. Consequently, applicants further respectfully submit that the Examiner's rejection of claims 1, 2, 8, 11, 12, 14-16, 22, 23 and 28 under 35 U.S.C. §102(b) as being anticipated by Petrick is no longer tenable and respectfully request withdrawal of that rejection.

Hellstrom et al. discloses a container closure system that is circular in cross-section. See, e.g., FIGS. 2 and 5. There is neither teaching nor suggestion of a tip cap for a syringe having a top wall with a non-circular cross-section, as claimed by applicants. Thus, applicants respectfully submit that their claims are not anticipated by Hellstrom et al., as it fails to teach or suggest each element recited by the claims of the present application, as is required of a proper 35 U.S.C. §102 reference. Consequently, applicants further respectfully submit that the Examiner's rejection of claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102(b) as being anticipated by Hellstrom et al. is no longer tenable and respectfully request withdrawal of that rejection.

Cloyd discloses a plastic stopper for a syringe comprised of a cylindrical holder 1. As the disclosed stopper fits within a vial 11 that fits within the syringe, the stopper is necessarily also cylindrical. As with each of the prior art references discussed above, Cloyd discloses a device having a circular cross-section, not a tip cap for a syringe having a top wall with a non-circular cross-section, as claimed by applicants. Thus, applicants respectfully submit that their claims are not anticipated by Cloyd, as it fails to teach or suggest each element recited by the claims of the present application, as is required of a proper 35 U.S.C. §102 reference. Consequently, applicants further respectfully submit that the Examiner's rejection of claims 1, 8, 11, 12, 14, 15, 22, 23 and 28 under 35 U.S.C. §102(b) as being anticipated by Cloyd is no longer tenable and respectfully request withdrawal of that rejection.

DiBiasi et al. discloses a self-aligning shield for a syringe - the shield having a circular cross-section. See, e.g., FIG. 4. The above-noted deficiencies in the disclosure of each of Hellstrom et al., Jansen et al. and Leinsing are not overcome by the disclosure of DiBiasi et al., nor by the knowledge of a person of ordinary skill in the art. Thus, applicants respectfully submit that the Examiner's proposed combination of DiBiasi et al. and Hellstrom et al., Jansen et al, or Leinsing does not render the claims of the present application unpatentable. Applicants thus respectfully submit that the Examiner's rejection of claims 9 and 24 as being unpatentable over the combination of DiBiasi et al. and any of Hellstrom et al., Jansen et al, or Leinsing is no longer tenable, and respectfully request withdrawal of that rejection.

In view of the foregoing remarks, applicants respectfully submit that this amendment is fully responsive to the Office Action, and that claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28, 31 and

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32 are patentable over the prior art of record in the present application, and are thus in condition for allowance. Applicants thus respectfully request early and favorable reconsideration of the present application.

Applicant hereby authorizes the Commissioner to charge the fees necessary in connection with this amendment to Deposit Account Number 02-1666.

Any questions concerning this application or amendment may be directed to the undersigned agent of applicant.

Respectfully submitted,

Dated: July 22, 2005

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APPENDIX A

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AMENDMENTS TO THE DRAWINGS

The drawing sheet attached hereto as Appendix A include changes to FIG. 5. This sheet include FIGS. 4, 5 and 7 and replaces original sheet 3 of 8. In FIG. 5, elements 52 have been changed from a dashed line to a solid line to indicate the correct location of those features.

Annotated Sheet Showing Changes

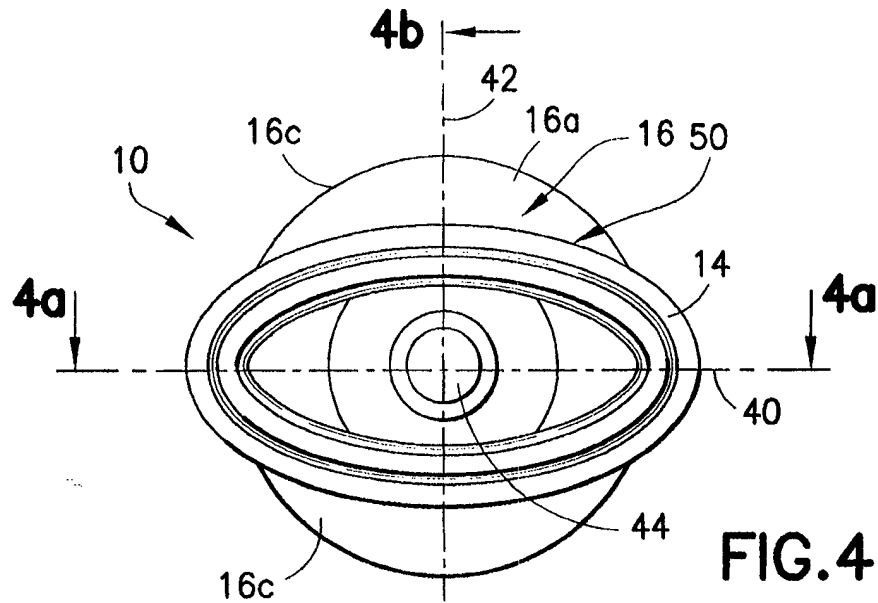


FIG. 4

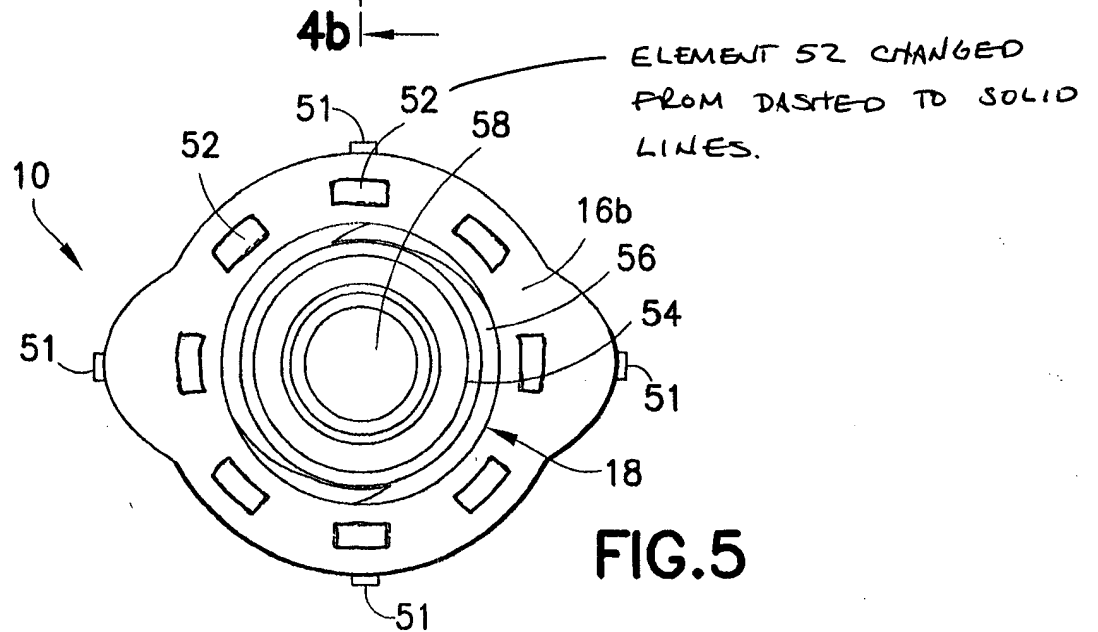


FIG. 5

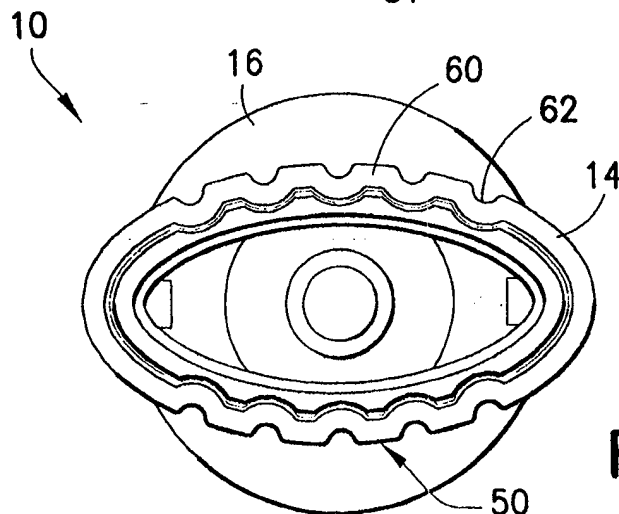


FIG. 7